

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ELIOT SCOTT GRIZZLE,

No. C 07-4845 SI

Petitioner,

**ORDER TO SHOW CAUSE; DENYING
MOTION FOR DISCOVERY WITHOUT
PREJUDICE TO RENEWAL**

v.

ROBERT HOREL,

Respondent.

The Court may entertain a petition for writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A district court considering an application for a writ of habeas corpus shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or false. *See Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).

The Court finds that petitioner’s claims are cognizable in a federal habeas action. The clerk shall serve by certified mail a copy of this order, the petition and all attachments thereto upon respondent and respondent’s attorney, the Attorney General of the State of California. The clerk shall also serve a copy of this order on petitioner and petitioner’s counsel at the mailing address provided.

Respondent must file and serve upon petitioner, on or before **September 30, 2008**, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent must file with the answer a copy of all

1 portions of the transcript that have been previously transcribed and that are relevant to a determination
2 of the issues presented by the petition. If petitioner wishes to respond to the answer, he must do so by
3 filing a traverse with the Court and serving it on respondents on or before **October 31, 2008**.

4 The Court DENIES petitioner's motion for discovery without prejudice to renewal after the
5 completion of briefing and production of the record by respondent. (Docket No. 8).

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7 **IT IS SO ORDERED.**

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9 Dated: August 1, 2008



SUSAN ILLSTON
United States District Judge